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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JAMES O. WRIGHT JR.,

7 Plaintiff,

8 v.

9 E.M. HENDRICHSEN, et al,

10 Defendants.

Case No. 3:17-cv-05961-RBL-TLF

ORDER DENYING PLAINTIFF'S
MOTION FOR COURT-
APPOINTED COUNSEL

11 This matter comes before the Court on plaintiff's motion for court-appointed counsel.
12 Dkt. 9. Having carefully considered that motion and balance of the record, the Court finds it
13 should be denied.

14 There is no constitutional right to have counsel appointed in a 42 U.S.C. § 1983 action.
15 *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v. \$292,888.04*
16 *in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section
17 is discretionary, not mandatory.”). In “exceptional circumstances,” a district court may appoint
18 counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)). *Rand v. Roland*, 113 F.3d
19 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998) (emphasis
20 supplied.)

21 To decide whether exceptional circumstances exist, the Court must evaluate both “the
22 likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro*
23 *se* in light of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328,
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1 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff
2 must plead facts that show he has an insufficient grasp of his case or the legal issue involved, and
3 an inadequate ability to articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of*
4 *America*, 390 F.3d 1101, 1103 (9th Cir. 2004). That a *pro se* litigant may be better served with
5 the assistance of counsel is not the test. *Rand*, 113 F.3d at 1525.

6 Plaintiff appears to be requesting appointment of counsel on the basis that he has been
7 unable to obtain private counsel. Dkt. 9, p. 2. The fact that plaintiff cannot obtain private
8 counsel, or cannot afford such counsel, is not the type of exceptional circumstance that might
9 warrant appointment of counsel at government expense. Rather, it is the type of condition of
10 confinement that all inmates who file civil rights complaints in general face. *See Wood v.*
11 *Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1998). Nor has plaintiff demonstrated a
12 likelihood of success, or demonstrated the issues in this case are necessarily complex or that he
13 has an inadequate ability to articulate the factual basis of his claims.

14 Accordingly, plaintiff's motion for court-appointed counsel (Dkt. 9) is DENIED. The
15 Clerk shall send a copy of this Order to plaintiff and counsel for defendants.

16 Dated this 5th day of January, 2018.

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20 Theresa L. Fricke
21 United States Magistrate Judge
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